IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2884 of 2010
and M.P.No.1 of 2014

S.Varadharajan ... Appellant

Vs.

1. The Inspector General of Registration,
Santhome, Chennai - 600 028.

2. The Special Deputy Collector (Stamps),
District Collector Office,
Thanjavur.

3. The Sub-Registrar,
Sub-Registration Ofice,
Sirkali. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 47-A (10) of the Indian Stamp Act, 1899, against the order dated 15.04.2009 in proceedings No.33173/No.5/08 passed by the Inspector General of Registration-cum- Chief Controlling Revenue Authority, Chennai.

For Appellant : Mr.R.Saravanakumar

For Respondents : Mr.A.Devnarenderan
Government Advocate (C.S)

J U D G M E N T

Aggrieved over the order dated 15.04.2009 in proceedings No.33173/No.5/08 passed by the Inspector General of Registration-cum- Chief Controlling Revenue Authority, Chennai/1st respondent, the appellant has come before this Court with this Civil Miscellaneous Appeal.

2. The appellant purchased certain agricultural land and registered the sale deed vide Document No.1794/2007. The 3rd respondent, Sub-Registrar, Sirkali, has referred it for redetermination of the valuation by the 2nd respondent/Special Deputy Collector (Stamps), Thanjavur. The 2nd respondent has

fixed the value of the property at Rs.4,100/- per are.

3. According to the appellant, he purchased the property and registered the same on the prevailing market value. The guideline value per acre is Rs.31,500/-, whereas, he has registered it for Rs.79,000/- per acre. The 2nd respondent has assessed the value as Rs.1,64,000/- per acre, which is far above the guide line value. Against which, he preferred an appeal to the 1st respondent and the 1st respondent rejected the contention of the appellant and confirmed the order passed by the 2nd respondent.

4. Heard the learned counsel appearing for both parties.

5. From a perusal of the order passed by the 2nd respondent, it is seen that the order was not based on the relevant materials. The 2nd respondent has redetermined the value of the property on the basis of the land situated near road and the relevant guideline value was also considered, while arriving at a conclusion. It appears that no notice was given before the site inspection. The 1st respondent has also not conducted any site inspection under notice to the appellant.

6. As per Rule 11-A of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, 1968, the appellate authority has to follow certain procedures. Rule 11(A) of the said Rules reads as under:-

> 11-A. Decision of the appellate authority. - The appellate authority may, for the purpose of deciding an appeal,-
>
> (a) call for any information or record from any public office, officer or authority under the Government or any local authority;
>
> (b) examine and record statements from any member of the public officer of authority under the Government or the local authority; and
>
> (c) inspect the property after due notice to the parties concerned.

7. The appellate authority must conduct the site inspection under notice to the parties concerned. He shall also take into consideration the statements, information or record from the public office or any legal authority and record their statements and conduct the inspection of the property before redetermining the market value. But, he relied on the reports filed by the Special Deputy Collector (Stamps) and the District Registrar. The District Registrar is not an authority under the Indian Stamp Act. The 1st respondent, as specified under Rule 11-

A of the said Rules, is expected to conduct the site inspection. But, he delegated the power to an incompetent authority namely, the District Registrar. Therefore, the order passed by the 1st respondent is not sustainable for violation of the procedures specified under statutory Rules. In a similar circumstance, this Court in C.M.A.No.2820 of 2012 dated 05.06.2015 (S.Santhi Vs. The Chief Revenue Controlling Authority & Inspector General of Registration, Chennai and two others) has held as follows:-

> 17. "The Authority conferred with certain functions under a statute has to carry out the same on its own such function and cannot delegate the same to another in the absence any contemplation for such delegation under the Act. In the present case, under rule 4 (3) (c) and rule 11-A of the rules, 2nd respondent-Collector and the first respondent Inspector General of Registration respectively, have to inspect the property and there is no enabling provision under the rules or under the Act to delegate such power. Therefore, inspections by other officers at the behest of the respondents vitiate the entire proceedings.
>
> 19. The impugned order has been passed by the first respondent purely based on inspection reports of the District Registrar/Deputy Thasildar, who are not authorised under the Act and hence the said inspection reports are not materials collected by the authorities, entitled under the Act. Hence, the proceedings of the second respondent and first respondent are vitiated."

8. Therefore, the order dated 15.04.2009 in proceedings No.33173/No.5/08 passed by the 1st respondent is not legally sustainable and accordingly, it is set aside.

9. The learned Government Advocate would submit that the Government has announced "Samadhan Scheme" in G.O.Ms.No.189, Commercial Taxes and Registration (J1) Department, dated 29.12.2017 and the appellant can work out his remedy before the 1st respondent.

10. Considering the submission made, this matter is remitted back to the 1st respondent for fresh consideration and

the 1st respondent is directed to complete the process within a period of three months from the date of receipt of a copy of this order, if the appellant chooses to avail benefit under the Samadhan Scheme.

11. With the above observations and directions, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

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To

The Chief Controlling Revenue Authority/
Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

+1cc to Mr.R.Saravana Kumar, Advocate SR.No.8937
+1cc to Government Pleader SR.No.8959

C.M.A.No.2884 of 2010
and M.P.No.1 of 2014

GJ(CO)
GN(20/03/2018)